FISCAL NOTE

Bill #: SB0085

Title: Tax of elect. generators and transmission facilities – tax elec. transmission

Primary Sponsor: Mike Halligan

Status: As introduced/revised

Sponsor signature	Date	Dave Lewis, Budget Director	Date

Fiscal Summary

	FY2000 Difference	FY2001 Difference
Expenditures:		
General Fund	$49,869	($106,543)
Revenue:		
General Fund	1,624,250	(3,546,679)
State Special (U Sys)	102,584	(224,000)
Net Impact on General Fund Balance:	**$1,574,381**	**($3,440,136)**

Yes	No		Yes	No	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget	X		Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

Property Taxes

1. The proposal is effective January 1, 2000.
2. There is no property tax impact from this legislation in FY2000. The full property tax impact of this legislation will occur in FY2001.
3. Costs of submitting these taxes to the electorate are included in SB86
4. Investor-owned utility electrical transmission and distribution property is moved from class 9, which is taxed at 12% of its market value, to class 11 and taxed at 11% of its market value. Rural cooperative association electrical transmission and distribution property is moved from class 5, which is taxed at 3% of its market value, to class 11 and taxed at 11% of its market value.

5. All property owned by rural electrical cooperative associations that serve less than 95% of the electricity consumers within the incorporated limits of a city or town is removed from class 7, which is taxed at 8% of its market value, and placed in property tax class 11 and taxed at 11% of its market value. There was no rural cooperative association electrical transmission and distribution property in class 7 in 1998.
6. All property owned by rural electrical cooperative associations used for the sole purpose of serving customers representing less than 95% of the electricity consumers within the incorporated limits of a city or town of more than 3,500 persons in which a centrally assessed electric power company owns property is removed from class 9, which is taxed at 12% of its market value, and placed in property tax class 11 and taxed at 11% of its market value.
7. For the purpose of this fiscal note, there is no adjustment to the market value as discussed in Section 25, subsection 8 of this bill. The language in this subsection is too vague to make an analysis.
8. All electrical generation facilities, except electrical generation facilities used for noncommercial purposes, exclusive agricultural purposes, or qualifying small power production facilities are moved from class 9 which is taxed at 12% of its market value, to class 13 and taxed at 6% of its market value.
9. Rural electric cooperatives do not have generating facilities, except for one small generator owned by Lincoln Electric Cooperative.
10. The assessed value for class 9 electrical generation facilities is not greater in FY2000 or FY2001 than the assessed value in 1998.
11. The pending sale of electric generation facilities in the state is not complete at this time. The 1998 market value of electric generation facilities, electrical distribution and transmission property, and other class 12 property is used to calculate fiscal impacts for FY2001.
12. In 1998, the taxable valuation of investor-owned electrical generation facilities was $172,046,598. Property taxes for these facilities totaled $33,567,759 and were distributed $16,344,427 to the state general fund; $1,032,280 to the university account; and $16,191,052 to local governments and schools. Under this proposal, the taxable valuation rate is reduced from 12% to 6%, resulting in a reduction in revenue of $8,172,214 to the state general fund; $516,140 to the university account; and $8,095,526 to the local governments and schools.
13. In 1998, the taxable valuation of the single rural cooperative association electrical generation facility was $74,466. Property taxes for this facility totaled $24,866 and were distributed $7,074 to the state general fund; $447 to the university account; and $17,345 to local governments and schools. Under this proposal, the taxable valuation rate is increased from 3% to 6%, resulting in an increase in revenue of $7,074 to the state general fund; $447 to the university account; and $17,345 to the local governments and schools.
14. In 1998, the taxable valuation of investor-owned electrical transmission and distribution property was $99,141,167. Property taxes for this property totaled $35,744,337 and were distributed $9,418,411 to the state general fund; $594,847 to the university account; and $25,731,079 to local governments and schools. Under this proposal, the taxable valuation rate is reduced from 12% to 11%, resulting in a reduction in revenue of $784,868 to the state general fund; $49,571 to the university account; and $2,144,257 to the local governments and schools.
15. In 1998, the taxable valuation of rural cooperative association electrical transmission and distribution property was $8,426,313. Property taxes for this property totaled $3,047,751 and were distributed $800,500 to the state general fund; $50,558 to the university account; and $2,196,693 to local governments and schools. Under this proposal, the taxable valuation rate is increased from 3% to 11%, resulting in an increase in revenue of $2,134,662 to the state general fund; $134,821 to the university account; and $5,857,824 to the local governments and schools.
16. In 1998, the taxable valuation of other class 12 rural electrical cooperative association property was $85,239. Property taxes for this property totaled $38,559 and were distributed $8,098 to the state general

fund; $511 to the university account; and $29,950 to local governments and schools. Under this proposal, the taxable valuation rate is reduced from 12% to 11%, resulting in a reduction in revenue of $675 to the state general fund; $42 to the university account; and $2,496 to the local governments and schools.

17. The reduced property tax revenues are heavily weighted towards the general fund because most of the property tax reduction is located at Colstrip where the state mill levies produce more than local mill levies.
18. The FY2001 total reduction in property tax revenues is estimated to be $6,816,021 for the general fund, $430,485 for the university system and $4,367,110 for county and local taxes.

Wholesale Energy Transaction Tax

19. A wholesale energy transaction tax is imposed on the transmission of all electricity into or out of the state on transmission lines not owned by an entity of the United States Government. The tax is imposed at a rate of 0.03 cent per kilowatt-hour.
20. There is no available data on kilowatt transmission imported into the state. Only data for in-state generation of electricity is used to estimate the wholesale energy transaction tax (source-HJR2). For the purpose of this fiscal note, the growth rate of in-state electrical production is estimated to be 1% per fiscal year (source-HJR2). Facility owners are permitted to retain 3% of the collected tax as an administrative fee.
21. In FY2000, in-state generating facilities are estimated to produce 22,926,755,000 kilowatt hours (kwh). In FY2001, in-state generating facilities are estimated to produce 23,073,843,000 kwh. A wholesale energy transaction tax of .03 cent per kilowatt-hour, minus the 3% administrative fee, produces an estimated $3,335,843 in tax revenues in FY2000 and an estimated $6,714,488 in FY2001.

Wholesale Energy Transaction Tax – Reimbursement

22. Wholesale energy transactions taxes collected under this bill are used to provide reimbursements to taxing jurisdictions experiencing a reduction in taxable value due to changing the taxable valuation rate of electrical generation facilities owned by electric power companies and taxed under 15-6-141 in tax year 1998. Reimbursements are made in proportion to each taxing jurisdiction’s share of total property taxes collected on this property in tax year 1998.
23. In tax year 1998, property taxes on generation property totaled $33,567,759 with the state general fund receiving $16,344,427 (48.69%); the 6-mill university account receiving $1,032,280 (3.08%); and local governments, including schools, receiving $16,191,052 (48.23%).
24. There will be $3,335,843 in revenue in FY2000. The above assumptions result in wholesale energy transaction tax reimbursements in FY2000 of $1,624,250 to the state general fund; $102,584 to the university system; and $1,609,008 to local governments and schools. In FY2001, the wholesale energy transaction tax is distributed $3,269,341 to the state general fund; $206,485 to the university system; and $3,238,662 to local governments and schools.
25. The net FY2001 fiscal impact (property tax loss + wholesale transaction tax redistribution) is estimated to be $3,569,554 to the general fund, $225,445 to the universities, and $1,118,148 to the counties.

GTB Funding

26. The change in taxable values will cause school districts to change GTB levies in FY2001 to maintain minimum budgets required under section 20-9-308(1)(a), MCA (see technical note # 2). The change will decrease by $147,493 the amount of state GTB aid in FY2001.

Administrative Impacts

27. The proposal would create one position to administer and audit the wholesale energy transaction tax or total cost of $39,152 in FY2000 and $38,878 in FY2001.
28. The proposal would create operating expenses of $8,717 in FY2000 and $2,522 in FY2001.
29. The proposal would create equipment expenses of $ 2,000 in FY2000 and $0 in FY2001.

FISCAL IMPACT:	FY2000 Difference	FY2001 Difference
FTE	1.00	1.00
Expenditures:		
Personal Services	$39,152	$38,878
Operating Expenses	8,717	2,522
Equipment	2,000	0
Local Assistance – School GTB	0	(147,943)
TOTAL	$49,869	($106,543)
Funding:		
General Fund (01)	$49,869	$(106,543)
Revenues:		
General Fund (01)	$1,624,250	($3,546,679)
State Special (U SYS)	102,584	(224,000)
Net Impact to Fund Balance (Revenue minus Expenditure):		
General Fund (01)	$1,574,381	($3,440,136)
State Special Revenue (02)	$102,584	($224,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

In FY2000, local governments and schools would receive an initial reimbursement of $1,609,008 wholesale energy transaction funds. In FY2001, local governments and schools would receive a reimbursement of $3,238,662, but they would experience property tax reductions of $4,367,110 for a net loss of $1,128,448. This net loss would carry over into future years.

LONG-RANGE IMPACTS:

The shortfall between property tax reductions and wholesale transaction energy redistribution payments is approximately $6.7 million in FY01. Under the proposal, this shortfall will continue each year into the future.

TECHNICAL NOTES:

1. There is no section that defines technical terms. For example the terms transmission and distribution are not defined. Interstate capabilities of transmission facilities come under the domain of the Federal Energy Regulatory Commission (FERC). Distribution facilities typically have come under the review of state regulatory agencies, including the Public Service Commission in Montana. This bill blurs the line of distinction between the regulatory agencies although FERC has issued orders deferring some authority to the states

2. School districts are required to budget at the BASE level under section 20-9-308 (1)(a), MCA. With the reduction in taxable values under this bill, provisions of CI-75 will require voter approval to increase tax rates to continue to meet the minimum budget requirement. If voters do not approve the increase, the district will be in violation of section 20-9-308, MCA.
3. The wholesale energy transaction tax is to be applied when the electricity enters a privately owned transmission system (see section 3 of the proposal). Line flow into a point on the transmission grid system is difficult to determine. Actual electrical flow and contractual delivery amounts are different. Because electricity is lost during its transmission from one area to another, a tax applied to the electricity where it is introduced into the transmission/distribution system will collect more funds than a tax imposed where the electricity exits the system.
4. The potential exists for transmission lines to be managed by an independent grid operator under the requirements of FERC Order 888 and 889. If this occurs, the transmission line owners may not know all the users on their system.
5. Electric utility property will be placed in one of several property tax classes. In some instances, it will be difficult to determine what is electrical generating equipment and what is transmission and distribution equipment.
6. Sections 6, 7 and 8 conflict with language concerning penalty and interest in HB 132. The purpose of HB 132 is to standardize penalty and interest applied to taxes. Also, the reference to interest on overpayments should tie back to HB 132, section one, so that interest on overpayments remains consistent with interest on deficiencies.
7. Section 11 refers to the distribution of "tax revenue". It is not clear if the intention is to include penalties, and interest in the distribution.
8. The proposal does not provide appropriation authority.
9. Sections 23 and 24 eliminate SB 390 language that was passed by the 1997 Legislature for electric cooperative property that falls under the provisions of Section15-6-141, MCA. That section required electric cooperative property that was in competition with an investor-owned utility to be placed in property tax class 9. The intent of SB 390 is no longer in place.
10. No provisions were made to address electric cooperatives owning generation facilities. The state currently has one cooperative with generation facilities. In a deregulated market, more cooperatives may move into the generation arena.
11. Section 25, subsection 8 attempts to determine market value for each taxpayer under class 11 property using several criteria. However, the subsection is vague and unclear.